

PART 2

From section 3 of the Local Government (Tamaki Makaurau Reorganisation) Act 2009 as amended,

- “(5) The Government considered the Royal Commission’s report and agreed with many of its recommendations, including the creation, through legislation, of—
- (a) a single governing body for the Auckland region; and
 - (b) an entity to effect the necessary changes.”

The New Local Government Structure for Auckland

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Auckland Council: Overview and Governing Body

Unlike any other local authority in New Zealand, Auckland Council provides for decision making shared between an elected governing body (the mayor and 20 councillors) and 21 elected local boards, while being serviced by council-controlled organisations (CCOs) with strengthened accountability provisions. This chapter and the remainder of Part 2 of the report focus on the recommendations to and policy decisions by the Government on the new governance model for Auckland, and the role of the Auckland Transition Agency (“Transition Agency”) in establishing the model by 1 November 2010.¹

- 1-1 This chapter describes the unique overall features of the new Auckland Council structure, its principal components – governing body, local boards, and CCOs – and the relationships between them.
- 1-2 The chapter is in three sections. Section 1 summarises key milestones in the process creating Auckland Council, starting with the recommendations of the Royal Commission on Auckland Governance and ending with an overview of the finalised structure and outcomes that the Government wants the new arrangements to achieve. The section sets out reasons why Auckland’s new local government model also needs to be accompanied by a change in both mind-set and conduct of participants in the way they carry out their roles and responsibilities if the reform is to endure and ultimately be successful. Section 2 outlines the work of the Transition Agency to design the overall structure of the Auckland Council to enable fulfilment of Government’s aims and expectations that the one organisation provide an integrated approach to manage and resolve both regional and local issues. Section 3 describes the arrangements determined for the governing body, including its role in focusing on regional issues and the responsibilities of the mayor and 20 councillors.
- 1-3 Chapter 2, “Auckland Council: Local Boards”, then outlines the Transition Agency’s work to establish the local boards, including determining local board non-regulatory activities, preparing inaugural budgets, and arranging accommodation for each of the new 21 local boards.
- 1-4 The next chapter describes the Transition Agency’s involvement in making arrangements for a number of entities that will be supported by and closely involved with the council, including an independent Māori Statutory Board for mana whenua and mataawaka, a Pacific Peoples Advisory Panel, and an Ethnic Peoples Advisory Panel.
- 1-5 Subsequent chapters describe the work of the Transition Agency to design and establish a number of CCOs to be fully operational from Day One – 1 November 2010.

¹ The Transition Agency’s role was distinct from that of the Local Government Commission. The latter’s role of determining the number of wards and local boards and the boundaries of the new Auckland Council is briefly described in paragraphs 1-38 to 1-40.

1: Overview

Royal Commission recommendations

- 1-6 The report of the Royal Commission on Auckland Governance, published in March 2009, recommended replacing the existing local government arrangements with a unitary authority, to be called “Auckland Council,” to assume all local government responsibilities in the Auckland region.²
- 1-7 The core reason cited by the Royal Commission for establishing a unitary authority was to address problems of fragmented regional governance, and to provide the capacity for improved coordination with central government. “A new Auckland-wide entity will provide for much more decisive and visible leadership, and allow for long-term planning and more efficient use of public resources and infrastructure investment.”³
- 1-8 The Royal Commission also recommended that Auckland Council should operate and have representation at two levels: the elected Auckland Council of a mayor elected at large and 23 Auckland councillors (including three Māori); and six local councils (with a total of 77 elected members plus six chairs). In this model, 10 Auckland councillors would have been elected at large; eight elected from four urban wards (two councillors per ward); two councillors elected in two rural wards (one councillor per ward); two councillors elected at large from the Māori electoral roll; and one councillor appointed by mana whenua.⁴
- 1-9 The Royal Commission considered several other options, including a model with 20 local councils, which it rejected.
- 1-10 The Royal Commission also recommended that Auckland Council should comprise a single organisation, with a single staffing and management structure. “The Auckland Council should employ one chief executive officer, who will employ all other council staff (but not staff of council-controlled organisations) at both Auckland and local levels, including local council managers for each local council.”⁵

The Government’s high-level decisions on Auckland Council structure

- 1-11 Within a month of the Royal Commission delivering its report, Government announced that it agreed with the Royal Commission’s principal recommendation and reason to establish one unitary Auckland Council to replace the region’s eight local authorities: “Auckland’s current governance arrangements are weak, fragmented and don’t enable or encourage effective regional decision-making.”⁶
- 1-12 Government also supported the Commission’s recommendation that a single mayor be elected at large, and that Auckland Council have 20 elected councillors. However, the Government initially

² Royal Commission on Auckland Governance, *Report, Volume 1*, March 2009, recommendation 14A, p. 23, p. 337.

³ *Op. cit.*, p. 329 at para. 14.7.

⁴ For more information, see Royal Commission on Auckland Governance, *Report, Volume 1*, Chapters 14–16, pp. 329–379, in particular Figure 15.1, p. 345, and recommendations 14C and 15A.

⁵ *Op. cit.*, recommendation 14E, p. 23, p. 338.

⁶ The Government’s high-level decisions on Auckland governance, *Making Auckland Greater*, April 2009, p. 10 (available at <http://www.aucklandcouncil.govt.nz/SiteCollectionDocuments/Making-Auckland-Greater-government-decisions-20042009.pdf>, accessed October 2010).

decided that eight of the 20 councillors should be elected at large and the remaining 12 from 12 wards (one councillor per ward).

- 1-13 Other high-level Government decisions on the structure of the Auckland Council announced on 7 April 2009 included the following:
- Twenty to 30 local boards would be established across the region as the second tier of governance.
 - The final number of local boards and the boundaries of the Auckland Council, wards, and local boards would be determined by the Local Government Commission.
 - Special provision was made for Waiheke Island and Great Barrier Island to have their own local boards because they are geographically isolated and have their own distinctive needs.
 - Māori representation would continue to be addressed by the provisions of the Local Government Act 2002 (LGA 2002).⁷
 - An independent Establishment Board – the Auckland Transition Agency – would be established with statutory powers and responsibilities to manage the transition to the new structure.
- 1-14 In explanation for its high-level decisions the Government announcement reinforced the need for the new structure to reflect a clear differentiation between the role of local boards and the role of the new Auckland Council councillors. The local boards would have prescribed roles and functions, but would not replicate the service delivery structures that were to be managed by the Auckland Council councillors. The local boards, however, provided for strong community representation and the ability for residents and ratepayers to influence local decision making.
- 1-15 Reasons given for not accepting the Royal Commission's proposal of six local councils included the following:⁸
- Many Aucklanders expressed deep concern about the Royal Commission's proposals to disestablish community boards across the region and to maintain six local councils with much reduced powers.
 - Accountability and allocation of functions across the two tiers of governance proposed by the Royal Commission was unclear.
 - The proposed six councils were too large to provide for effective grassroots community representation.
- 1-16 To give effect to Government's high-level decisions, on 17 May 2009, the Local Government (Tamaki Makaurau Reorganisation) Act ("Reorganisation Act") was passed by Parliament under urgency. The Reorganisation Act established the new Auckland Council and disestablished the existing Auckland local authorities on 1 November 2010. It also set up the Transition Agency with responsibility for planning, establishing, and giving effect to the new governance arrangements.

Aim of reform

- 1-17 The reasons for Government's high-level decisions outlining a dramatically new approach to Auckland's local government arrangements were put into a New Zealand-wide context stressing the importance of Auckland as the nation's largest city and home to more than a third of the population:

The Government wants Auckland to be the most exciting, vibrant metropolitan centre in Australasia:

⁷ Local Government Act 2002, section 40(1)(d), says representation arrangements include the option of establishing Māori wards or constituencies.

⁸ *Making Auckland Greater*, p. 11 and p. 14.

- a region that attracts people and investment;
- a region that has first class infrastructure and lifestyle; and,
- a region that will encourage our children and grandchildren to build their futures in New Zealand.

The new governance structure will enable Auckland to reach its full potential as the engine room for the country's economic growth.⁹

- 1-18 The Government subsequently reinforced in legislation and publicly the reasons and aims for reforming Auckland's local government arrangements. A policy statement in the Local Government (Auckland Law Reform) Bill – which was subsequently enacted in 2010 as three Acts (see Chapter 12, "Legislative Framework") – stated that if this attempt to reform Auckland's local arrangements is to provide "enduring solutions", the governance of Auckland must be integrated into one organisation able to manage and resolve both regional and local issues:

Auckland's potential is restricted by the fragmented way the city is run. Regional issues get tangled up in the competing interests of local councils. Community matters get tangled up in local councils' focus on the Auckland-wide issues.

... [The new] governance arrangements aim to create one Auckland, which has strong regional governance, integrated decision making, greater community engagement, and improved value for money.¹⁰

- 1-19 To achieve the above aims, Cabinet made a series of decisions in 2009 and 2010 designed to enable the Transition Agency and other key organisations involved in the design and construction of Auckland's new local government arrangements to create a unique unitary Auckland Council in which all the structural divisions (governing body, local boards, CCOs, and other entities) have some shared ownership of roles, tasks, and responsibilities.

Legislative framework

- 1-20 Government's high-level decisions and subsequent Cabinet decisions relating to local government reform in Auckland are reflected in the five pieces of legislation that provide the framework for the Auckland Government reforms:
- Local Government (Tamaki Makaurau Reorganisation) Act 2009
 - Local Government (Auckland Council) Act 2009 ("Auckland Council Act")
 - Local Government (Tamaki Makaurau Reorganisation) Amendment Act 2010
 - Local Government (Auckland Council) Amendment Act 2010 ("Auckland Council Amendment Act")
 - Local Government (Auckland Transitional Provisions) Act 2010 ("Transitional Provisions Act").
- 1-21 The governance structure of the Auckland Council is set out in the Auckland Council Act. Section 7 contains the key provisions:
- (a) The Auckland Council has a two-tier governance structure comprising the governing body and the local boards; and,
 - (b) The decision-making responsibilities of the Auckland Council are shared between the governing body and the local boards in accordance with sections 14 to 23 of this Act.

⁹ *Making Auckland Greater*, p. 10.

¹⁰ Local Government (Auckland Law Reform) Bill (112-1), General policy statement.

- 1-22 This can be compared with all other councils in New Zealand, which have a governing body only.¹¹
- 1-23 As noted above, section 7 of the Auckland Council Act refers to a “two-tier” structure. The word “tier” implies a hierarchy with one entity above the other. However, the effect of the relevant Auckland Council Act provisions read as a whole is that the governing body and the local boards are “largely” autonomous within their respective areas of decision making, with neither having control or oversight over the other.
- 1-24 This is “largely” the case, because in three respects the governing body may have power to directly or indirectly influence or control some local board decision making:
- (a) The governing body has the final say in relation to plans, policies, and strategies which set a framework for all council decision making, including by local boards.¹² These documents may therefore affect local boards’ decisions.
 - (b) In the case of matters *delegated*¹³ to local boards by the governing body, the governing body can if it wishes retain a level of oversight or control, through the terms of the delegation.
 - (c) The governing body has the power to determine that a bylaw proposed by a local board, or the proposed revocation of a bylaw by a local board, does not meet certain statutory requirements.¹⁴ However, a local board dissatisfied with a decision of the governing body under these sections may apply to the Local Government Commission for a binding determination on the matter.¹⁵
- 1-25 In summary, therefore, the general intent of the relevant Auckland Council Act provisions is that the governing body and local boards are, with limited exceptions, autonomous within their respective areas of decision making.
- 1-26 Decisions by local boards in respect of responsibilities *allocated* to them are, as a matter of law, decisions of the Auckland Council, in exactly the same way that decisions of the governing body are decisions of the council. The governing body has no formal role in respect of those decision-making responsibilities that are conferred by statute on, or allocated to, local boards. No further procedure (including endorsement by the governing body) is required for those local board decisions to be effective. Further detail on the role and responsibilities of local boards is covered in Chapter 2, “Auckland Council: Local Boards”.
- 1-27 Taking into account the aims of the reform described above, Government’s overall intentions for the new Auckland model of local government are clear. It wants a single local government entity that can provide strengthened regional leadership while also providing more effective local and community representation and democracy.
- 1-28 The way decisions are made changes significantly, but the core role of local government to provide basic services remains intact.

¹¹ Local Government Act 2002, section 41.

¹² Local Government (Auckland Council) Act 2009 [hereafter in Chapter 1 footnotes “Auckland Council Act”], section 15(1).

¹³ Auckland Council Act, section 31, authorises the governing body to delegate to a local board any responsibilities, duties, and powers, except certain powers described in Schedule 7 of the Local Government Act 2002 (such as being able to set rates, make bylaws, or adopt plans or policies).

¹⁴ Auckland Council Act, sections 24(3)(b) and 27(3)(b).

¹⁵ Auckland Council Act, section 97(3), inserted by the Auckland Council Amendment Act, section 31.

Chapter 1

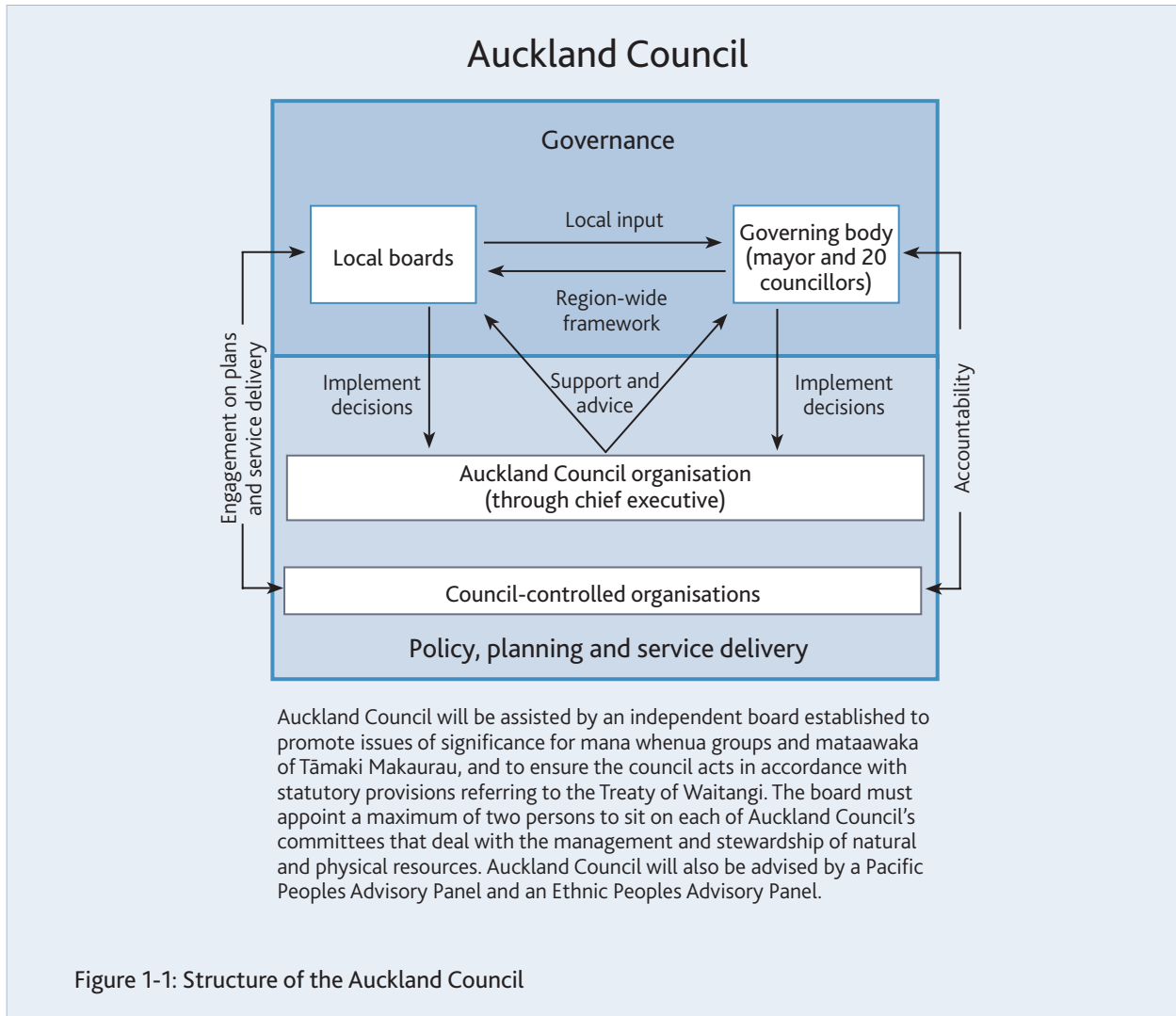
- 1-29 To achieve both strengthened regional leadership and more effective local representation, the legislation provides for complementary decision-making parts:
- the governing body, consisting of a mayor elected by all Aucklanders and 20 councillors elected on a ward basis
 - 21 local boards, with members elected by local board areas.
- 1-30 The governing body and local boards share the decision-making responsibilities of Auckland Council:
- The governing body will focus on the big picture and on region-wide strategic decisions.
 - Local boards will represent their local communities and make decisions on local issues, activities, and facilities.
- 1-31 Auckland Council will deliver services through the Auckland Council organisation and a number of CCOs. The CCOs will be responsive and accountable to the views of both local boards on local issues and the governing body on regional matters through a managed process.

Subsequent changes to Government's high-level decisions of April 2009

- 1-32 The Cabinet decisions taken during 2009 and the subsequent legislative programme including select committee hearings in 2010 resulted in a number of changes to the Government's high-level decisions that had been announced in April 2009. The principal changes were as follows:
- Thirteen wards (rather than the originally proposed 12) would be established, with all 20 councillors to be elected from the 13 wards.
 - Local board membership in the future would be able to be increased to a maximum of 12 members on each, but current levels would remain for the first two terms (i.e. six years).
 - The Transition Agency would make the initial determination of non-regulatory activities for which local boards would be responsible in accordance with statutory criteria.

Outcome of structural reform process

- 1-33 The scope of the change to Auckland's local governance arrangements achieved by the legislative reform process is significant and complex, with many organisations being disestablished and their staff and assets moved in to a structure that is unlike any other local authority in New Zealand:
- First, decision making is shared between the governing body and local boards.
 - Second, Auckland Council is required by statute to produce a spatial plan. This will be informed by the mayor's vision and local board input, and form the core strategic document for the development of the region, from which other plans and strategies will evolve – for example transport, urban development, economic, social, and environmental plans.
 - Third, and unique to Auckland Council, seven substantive CCOs have been established within the overall structure of Auckland Council, each of which is required to "give effect" to the relevant aspects of the long-term plan and act consistently with other plans and collaborate with the council on achieving aligned outcomes.
- 1-34 The overall structure of Auckland Council, shown in Figure 1-1 opposite, was designed by the Transition Agency to reflect these unique provisions in the Auckland legislation.
- 1-35 In total there will be 170 elected representatives and nearly 50 appointed CCO board members, all responsible for aspects of the Auckland Council's local government decision making.



- 1-36 The successful performance of this unique governance model will require a new approach involving a high degree of integration and collaboration between the various entities, and development of effective working relationships at both an organisational and a governance level.
- 1-37 These and some other important characteristics of the new Auckland Council structure and how it represents a completely new model of local government for New Zealand are described in more detail in the sections below and in later chapters.

Role of Local Government Commission

- 1-38 As well as the legislation providing the framework for the Transition Agency to establish the Auckland Council structure as described above, the Auckland Council Act made specific provision for the Local Government Commission to determine the initial arrangement for electing councillors to the governing body and to determine initial electoral arrangements for local boards. The Commission’s determinations on these matters are set out in a separate report¹⁶ and were subsequently implemented by the Local Government (Auckland Wards and Local Boards) Determination 2010.

¹⁶ Local Government Commission, *Auckland Governance arrangements: Determinations of wards, local boards and boundaries for Auckland*, Volumes 1 and 2, March 2010.

Table 1-1: Summary of representation changes

Previous situation	New arrangements
1 regional council	1 Auckland Council
4 city councils	21 local boards
3 district councils	
30 community boards	
1 chair elected by regional council	1 mayor, with enhanced powers, elected at large
7 mayors elected at large, within cities and districts	
13 regional councillors (including the chair)	20 councillors, elected from 13 wards
96 territorial authority councillors	149 local board members
145 community board members	

- 1-39 A summary of Government's key representation changes to Auckland's local government arrangements is shown in Table 1-1.
- 1-40 The Auckland Council area division into 13 wards and 21 local boards is depicted in Figure 1-2 opposite and Figure 1-3 on page 54 and detailed in Table 1-2 (page 55). Individual local board maps are provided as Appendix 2-A (page 462) of this volume.

Auckland Council – working effectively together and with others

- 1-41 The new legislative arrangements for Auckland's local government confer on all elected members a defined role to regularly engage with their respective communities of interest in order to understand their views and priorities. The elected councillors to the governing body will need to establish effective working relationships with communities across the region and with organisations that are important to the Auckland region as a whole, including central government and other national organisations and stakeholder groups. The elected local board members will need to establish close working relationships with their local community and other organisations that are important in the local area.
- 1-42 Effective collaboration between local boards, the governing body, and the CCOs will be essential if they are to respond to the needs of all of Auckland's communities. Local boards will provide local input into region-wide strategies, policies, and plans that are the responsibility of the governing body, and to which the CCOs are required to give effect.
- 1-43 Local boards will work closely with a wide range of stakeholders to meet the communities' needs and to address local issues such as unemployment, settlement of migrants, housing, and crime. These stakeholders might include central government agencies delivering services locally, local members of Parliament, voluntary organisations, and business and community groups.
- 1-44 Local boards may also work together to discuss and address common issues, or issues affecting more than one local board area. Indeed, the Auckland Council Act stipulates that a local board should collaborate and cooperate with one or more other local boards in situations where the interest of communities within each local board area will be better served by doing so.¹⁷

¹⁷ Auckland Council Act, section 16(3), inserted by the Auckland Council Amendment Act, section 17.